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8 **BEFORE THE**
9 **CALIFORNIA BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **WINGTO ALDOUS NG**
14 **24030 Falcons View Drive**
Diamond Bar, CA 91765

15 **and**

16 **Wingto Aldous Ng**
17 **10507 Valley Blvd., #858**
El Monte, CA 91731
18 **Certified Public Accountant Certificate No.**
63601

19 Respondent.

Case No. AC-2012-24

13 **DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

20
21 **FINDINGS OF FACT**

22 1. On or about September 24, 2012, Complainant Patti Bowers, in her official capacity
23 as the Executive Officer of the California Board of Accountancy, Department of Consumer
24 Affairs (CBA), filed Accusation No. AC-2012-24 against Wingto Aldous Ng (Respondent) before
25 the California Board of Accountancy. (Accusation attached as Exhibit A.)

26 2. On or about February 12, 1993, the California Board of Accountancy issued Certified
27 Public Accountant Certificate No. 63601 to Respondent. The Certified Public Accountant
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1 License expired on May 31, 2012, and has not been renewed. The Board has jurisdiction to
2 adjudicate this case per Business and Professions Code section 5109.

3 3. On or about October 9, 2012, Respondent was served by Rebeca Garcia, Attorney
4 General's Office, copies of the Accusation No. AC-2012-24, Statement to Respondent, Notice of
5 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
6 11507.6, and 11507.7) at Respondent's address of record which, pursuant to California Code of
7 Regulations, title 16, section 3, is required to be reported and maintained with the CBA.
8 Respondent's address of record was and is: 24030 Falcons View Drive, Diamond Bar, CA 91765,
9 and also served at secondary address: 10507 Valley Blvd., #858, El Monte, CA 91731.

10 4. Service of the Accusation was effective as a matter of law under the provisions of
11 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
12 124.

13 5. Government Code section 11506 states, in pertinent part:

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15 (c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts
17 of the accusation not expressly admitted. Failure to file a notice of defense shall
18 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
19 may nevertheless grant a hearing.

20 6. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions
23 or upon other evidence and affidavits may be used as evidence without any notice to
24 respondent.

25 7. Pursuant to its authority under Government Code section 11520, the CBA finds
26 Respondent is in default. The CBA will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the CBA's offices regarding the allegations contained in Accusation No. AC-2012-24, finds
that the charges and allegations in Accusation No. AC-2012-24, are separately and severally,
found to be true and correct by clear and convincing evidence.

8. Taking official notice of its own internal records, pursuant to Business and Professions Code section 5107, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$17,028.28 as of November 5, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Wingto Aldous Ng has subjected his Certified Public Accountant Certificate No. 63601 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The California Board of Accountancy is authorized to revoke Respondent's Certified Public Accountant Certificate based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

Respondent is subject to disciplinary action for unprofessional conduct under Business and Professions Code § 5100(c) and 5156 in that Respondent committed gross negligence and/or repeated acts of negligence in the performance in his engagements entailing the preparation and filing of client tax returns. Respondent is also subject to discipline under 5100(g) for failing to respond to CBA requests for documentation regarding preparation of client tax returns and renewal of deficiencies.

Respondent is also subject to discipline under § 5100 (g) for violating § 5060 in that he uses and advertises with a name (United Accountancy) not registered with the CBA.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED February 1, 2013

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DOJ Matter ID:LA2011506004

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Exhibit A

Accusation

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Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS
Deputy Attorney General
4 State Bar No. 171168
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **CALIFORNIA BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2012-24

13 **WINGTO ALDOUS NG**
24030 Falcons View Drive
Diamond Bar, CA 91765

ACCUSATION

14 Certified Public Accountant Certificate No. 63601

15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

19 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the California Board of Accountancy, Department of Consumer
21 Affairs (CBA).

22 2. On or about February 12, 1993, the CBA issued Certified Public Accountant
23 Certificate No. 63601 to Wingto Aldous Ng (Respondent). The Certified Public Accountant
24 Certificate was in full force and effect at all times relevant to the charges brought herein expired
25 on May 31, 2012, and has not been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the CBA under the authority of the following laws.
28 All section references are to the Business and Professions Code unless otherwise indicated.

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5. Section 5051 defines a licensee engaged in public practice.

"(a) No person or firm may practice public accountancy under any name which is false or misleading.

"(c) Notwithstanding subdivision (b), a sole proprietor may practice under a name other than the name set forth on his or her permit to practice, provided the name is registered by the board, is in good standing, and complies with the requirements of subdivision (a).

7. Section 5100 states, in pertinent part:

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• • • •

1 "(g) Willful violation of this chapter or any rule or regulation promulgated by the board
2 under the authority granted under this chapter. . . ."

3 8. Section 5156 states:

4 "An accountancy corporation shall not do or fail to do any act the doing of which or the
5 failure to do which would constitute unprofessional conduct under any statute, rule or regulation
6 now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such
7 statutes, rules and regulations to the same extent as a person holding a permit under Section 5070
8 of this code. The board shall have the same powers of suspension, revocation and discipline
9 against an accountancy corporation as are now or hereafter authorized by Section 5100 of this
10 code, or by any other similar statute against individual licensees, provided, however, that
11 proceedings against an accountancy corporation shall be conducted in accordance with Chapter 5
12 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and
13 the board shall have all the powers granted therein."

14 REGULATORY PROVISIONS

15
16 9. California Code of Regulations, title 16, section 52, states:

17 "(a) A licensee shall respond to any inquiry by the Board or its appointed representatives
18 within 30 days. The response shall include making available all files, working papers and other
19 documents requested.

20

21 "(d) A licensee shall provide true and accurate information and responses to questions,
22 subpoenas, interrogatories or other requests for information or documents and not take any action
23 to obstruct any Board inquiry, investigation, hearing or proceeding."

24 10. California Code of Regulations, title 16, section 58, provides that licensees engaged
25 in the practice of public accountancy shall comply with all applicable professional standards,
26 including but not limited to generally accepted accounting principles (GAAP) and generally
27 accepted auditing standards (GAAS).

28 11. California Code of Regulations, title 16, section 87, provides the minimum continuing

1 education license requirements and that willful failure to comply with the requirements of this
2 section shall constitute cause for disciplinary action pursuant to section 5100, subdivision (g), of
3 the Accountancy Act.

4 12. California Code of Regulations, title 16, section 94,

5 "Failure to comply with these continuing education rules by a licensee engaged in public
6 practice, as defined in Business and Professions Code Section 5051, constitutes cause for
7 disciplinary action under Section 5100."

8 PROFESSIONAL STANDARDS

9 13. Federal Code of Regulations, title 31, section 10.22 states:

10 "(a) In general. A practitioner must exercise due diligence --

11 "(1) In preparing or assisting in the preparation of, approving, and filing tax returns,
12 documents, affidavits, and other papers relating to Internal Revenue Service matters; . . ."

13 14. The American Institute of Certified Public Accountants (AICPA) Statements on
14 Standards for Tax Services No. 3 paragraph 2 states:

15 "In preparing or signing a return, a member may in good faith rely, without verification, on
16 information furnished by the taxpayer or by third parties. However, a member should not ignore
17 the implications of information furnished and should make reasonable inquiries if the information
18 furnished appears to be incorrect, incomplete, or inconsistent either on its face or on the basis of
19 other facts known to a member. Further, a member should refer to the taxpayer's returns for one
20 of more prior years whenever feasible."

21 COST RECOVERY

22 15. Section 5107, subdivision (a), states:

23 "The executive officer of the board may request the administrative law judge, as part of the
24 proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate
25 found to have committed a violation or violations of this chapter to pay to the board all reasonable
26 costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.
27 The board shall not recover costs incurred at the administrative hearing."

28 FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts)

16. Respondent is subject to disciplinary action under sections 5100, subdivision (c), and 5156, in that Respondent committed gross negligence and/ or, repeated acts of negligence, in the performance in his engagement for husband and wife Drs. M. & D.¹ (Client Drs.). The engagement entailed the preparation and filing of one (1) individual and three (3) corporations' tax returns for the client. Respondent failed to act with due diligence and failed to conform to standards of professional practice. The acts of negligence are as follows:

a. Respondent was grossly negligent when he failed to timely prepare and file:

- i. one (1) individual tax return for the 2005 tax year;
- ii. one (1) corporate tax return for the 2004 tax year;
- iii. one (1) corporate tax return for the 2005 tax year; and,
- iv. three (3) corporate tax returns for the 2006 tax year.

b. Respondent was grossly negligent when he failed to make certain that the Internal Revenue Service (IRS) 2006 Form 1040, individual tax return, signed by Respondent and filed with the IRS was the same as the copy provided to the client. The differences reported on the 2006 Form 1040 to the IRS and the client were:

- i. One S Corporation's² income has a difference of \$87,666;
- ii. SEP³ of \$40,000 is not on the copy filed with the IRS;
- iii. Filed copy included two (2) dependents while the unfiled copy did not; and,
- iv. Another S Corporation's income was \$25,082 less than the amount reported on the copy filed with the IRS.

c. Respondent was negligent when he failed to properly file or determine that IRS Form 2553⁴ had been filed with the IRS to make the S election before completing the

¹ "Client" full names will be provided through requests of discovery.

² S Corporation is a type of corporation that is taxed under subchapter S of the Internal Revenue Code (26 U.S.C.A. § 1 et seq.). An S Corporation differs from a regular corporation in that the net profits or losses of the corporation pass through to its owners.

³ SEP, simplified employee pension.

⁴ An S Corporation must file a special form, IRS Form 2553, with federal and state tax authorities that notifies them of the election of the subchapter S status.

1 corporation tax returns. The IRS rejected the client's 2005 and 2006 S Corporation tax returns.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Gross Negligence/Repeated Negligent Acts)**

4 17. Respondent is subject to disciplinary action under sections 5100, subdivision (c),
5 and 5156, in that Respondent committed gross negligence and/ or, repeated acts of negligence, in
6 the performance in his engagement for H.W. and a corporation (Client H.W.). The engagement
7 entailed the preparation and filing of corporation tax returns for years 2006 and 2007.

8 Respondent failed to act with due diligence. The acts of negligence are as follows:

9 a. Respondent was grossly negligent when he recommended the corporation become an
10 S Corporation and failed to file Form 2553 with the IRS.

11 b. Respondent was grossly negligent when in preparing the IRS Form 1120S,
12 S Corporation tax return, he failed to convert the member's draws to salaries, allowing the
13 dividends to remain on the tax return, in direct conflict with IRS instructions for form 1120S
14 line 7, Compensation of Officers, which states:

15 "CAUTION Distributions and other payments by an S Corporation to a corporate officer
16 must be treated as wages to the extent the amounts are reasonable compensation for services
17 rendered to the corporation." (See 2007 IRS Instructions for form 1120S, line 7).

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Failure to Respond to Board Requests)**

20 18. Respondent is subject to disciplinary action under section 5100, subdivision (g), for
21 violating California Code of Regulations, title 16, section 52, in that he failed to respond to CBA
22 requests within 30 days, as follows:

23 a. In regard to client Drs. investigation, Respondent failed and continues to fail to
24 respond to CBA letters directed to Respondent on or about December 17, 2009, and on or about
25 April 19, 2010, requesting Respondent to provide copies of all income tax returns with tax
26 transmittal letters prepared for the client Drs.

27 b. In regard to client H.W. investigation, Respondent failed and continues to fail to
28 respond in completeness to CBA letters directed to Respondent on or about November 20, 2008,

1 and on or about April 21, 2009, by failing to provide complete journal entries along with
2 supporting documentation for adjustments that reconcile the 2006 and 2007 trial balances, the
3 books, to the tax returns for the client H.W., the tax returns do not match the books or adjusted
4 books.

5 c. In regard to Respondent's May 31, 2010 renewal form deficiencies, Respondent
6 failed and continues to fail to complete and submit the Renewal Deficiency Response Form along
7 with the certificates of continuing education completion as requested by the CBA, on or about
8 December 7, 2010, and on or about February 24, 2011.

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10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Practicing/Advertising Using Unauthorized Name)**

12 19. Respondent is subject to disciplinary action under section 5100, subdivision (g), for
13 violating section 5060, in that Respondent uses United Accountancy, a name that is not registered
14 with the CBA, through his use and advertising with the website address
15 www.unitedaccountancy.com.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Failure to Complete Requisite Continuing Education)**

18 20. Respondent is subject to disciplinary action under section 5100, subdivision (g), and
19 California Code of Regulations, title 16, section 87, and 94, in that he failed to complete the
20 required courses of continuing education in order to renew his Certified Public Accountant
21 license. Respondent's May 31, 2010, renewal form was filed without his identifying name or
22 contact telephone numbers, and the mailing envelope contained a different address from his
23 address of record: 10507 Valley Blvd., #858, El Monte, CA 91731. The renewal form included
24 continuing education deficiencies as follows:

- 25 a. a course outside of the renewal period date range;
26 b. an insufficient amount of accounting and auditing (A & A) course hours;
27 c. an insufficient amount of fraud course hours;
28 d. an insufficient amount of ethics course hours.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the CBA issue a decision:

1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant Certificate No. 63601, issued to Wingto Aldous Ng;
2. Ordering Wingto Aldous Ng to pay the CBA the reasonable costs of the investigation and enforcement of this case, pursuant to section 5107; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/24/2012 Patti Bowers

PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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